

ARTICLE 547
All-terrain Vehicles

547.01 Operation of all-terrain vehicles on government property. 547.02 Exceptions. 547.03 Safety requirements. 547.04 Liability.	547.05 Parental responsibility. 547.06 Invalid provisions. 547.07 Definition of “all-terrain vehicle.” 547.08 Effective date.
--	--

CROSS REFERENCES

General Powers of Municipality -see W. Va. Code 8-12-5

547.01 OPERATION OF ALL-TERRAIN VEHICLES ON GOVERNMENT PROPERTY.

(a) The riding, operation, or other use of all-terrain vehicles (hereinafter referred to as ATV) within or upon the streets, alleys, sidewalks, parking lots and other governmentally owned, leased or otherwise controlled property situated within the corporate limits of the Town of Nutter Fort shall be prohibited.

(b) Any violation of this section constitutes the commission of a misdemeanor.

(1) Any person adjudged guilty and convicted of any first offense established hereunder by the Municipal Court of the Town of Nutter Fort shall be subject to a fine of not less than Twenty-Five Dollars (\$25.00), nor more than One Hundred Dollars (\$100.00), plus all Court costs.

(2) Any person adjudged guilty and convicted of any second or further offenses established hereunder by the Municipal Court of the Town of Nutter Fort shall be subject to a fine of not less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00), plus all Court costs.

547.02 EXCEPTIONS.

(a) It shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use an ATV upon any private property located within the corporate limits of the Town of Nutter Fort.

(b) It shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate or otherwise use an ATV upon a designated parade route or in conjunction with other activities sponsored, supported or approved by

the Town of Nutter Fort, provided that the person operating the ATV is a recognized participant of the sponsored, supported or approved activity and the ATV riding, operation, or other such use occurs in conjunction with said activity.

(c) It shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate or otherwise use an ATV upon private property otherwise restricted from such use, when such person is a participant in a duly organized exhibition or competition, authorized by the Council of the Town of Nutter Fort through the issuance of a permit by the Town Council. Application for any permit to conduct any such duly organized exhibition or competition must be made to the Council of the Town of Nutter Fort not less than thirty (30) days prior to the proposed date for conducting the exhibition or competition.

(d) It shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate or otherwise use an ATV upon property otherwise restricted from such use, when the Town of Nutter fort has declared a municipal emergency and has authorized the person operating the ATV to participate in efforts to alleviate the conditions creating the municipal emergency through the issuance of a permit by Town Council.

(e) It shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia to ride, operate or otherwise use an ATV upon property otherwise restricted from such use, when the person operating the ATV is a member of the Nutter Fort Police Department, the Nutter Fort Volunteer Fire Department or the Nutter Fort Maintenance Department and the ATV riding, operation or other such use occurs in conjunction with carrying out the responsibilities of their employment.

(f) It shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate or otherwise use an ATV upon property otherwise restricted for such use when such use is made in connection with the sale, service, maintenance or demonstration of ATVs by any retail seller of ATVs, or its employees or agents.

547.03 SAFETY REQUIREMENTS.

Any person operating an ATV pursuant to section 547.02 shall ensure that:

- (1) a helmet is worn while riding the ATV
- (2) the ATV has functioning headlights and brake lights
- (3) the ATV yields to all pedestrians and traffic
- (4) the ATV and the person operating the ATV are covered by a policy of insurance with minimum coverage limits of \$20,000.00 because of bodily injury to or death of one person in any one accident, and subject to said limit for one person, in the amount of \$40,000.00 because of bodily injury to or death of two or more persons in any one accident, and in the amount of \$10,000.00 because of injury to or destruction of property of others in any one accident.

547.04 LIABILITY.

Nothing contained within this Ordinance is intended, nor shall be construed so as to create or form the basis for any civil or administrative liability whatsoever on the part of the Town of Nutter Fort, or any of its officers, officials, employees or agents, for any injury or damage resulting to any person whomsoever as a consequence of any action or inaction on the part of the Town of Nutter Fort as related in any manner to the enforcement or non-enforcement of this Ordinance by the Town's officers, officials, employees or agents.

547.05 PARENTAL RESPONSIBILITY.

The parent or other guardian of any person not having attained the age of eighteen (18) years shall not authorize or knowingly permit any such minor to violate any provision hereof. Any such authorization or knowingly permitting any such minor to violate the provisions of this Ordinance shall constitute a criminal violation hereof, and shall subject such parent or other guardian, along with any minor violating the provisions hereof, to those same criminal sanctions set forth in section 547.02.

547.06 INVALID PROVISIONS.

The provisions of this Ordinance are severable and in the event that any provision or part hereof shall be held invalid for any reason by any Court exercising competent jurisdiction, then such invalidity shall not be deemed to affect or impair any of the other provisions or parts of this Ordinance not specifically held to be invalid. It is hereby declared to be the intent of the Town Council that this Ordinance would have been adopted if any such invalid provisions or part hereof had not been included herein.

547.07 DEFINITION OF "ALL-TERRAIN VEHICLE."

For the purposes of this Ordinance, the term "all-terrain vehicle" shall be defined as set forth in West Virginia Code §17A-1-1(ii), as amended.

547.08 EFFECTIVE DATE.

This Ordinance shall be deemed effective thirty (30) days following the second (2nd) reading, passage and adoption by the Council of the Town of Nutter Fort.
(Passed 9-11-01)